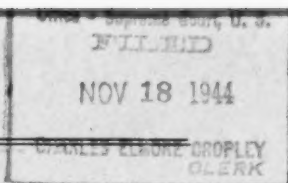


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IN THE

**Supreme Court of the United States**

OCTOBER TERM, 1944

No. 556

DORA ROBERTS,

*Petitioner,*

vs.

COMMISSIONER OF INTERNAL REVENUE,

*Respondent.*

**ON PETITION FOR A WRIT OF CERTIORARI TO  
THE UNITED STATES CIRCUIT COURT OF  
APPEALS FOR THE FIFTH CIRCUIT**

**Petitioner's Reply to Memorandum for the  
Respondent in Opposition to Petition**

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**Petitioner's Reply to Memorandum for the  
Respondent in Opposition to Petition**

In the memorandum filed for the respondent in opposition to the granting of the petition herein for a writ of certiorari, respondent concedes (Memorandum for the respondent, page 12) that the decision of the Court below, at least in part, like the decision of the same Court in *Fondren v. Commissioner*, 141 Fed. (2d) 419, (C. C. A.—5th) certiorari granted October 9, 1944, No. 88, conflicts in principle with the decision of the Circuit Court of Appeals in *Disston v. Commissioner*, 144 Fed. (2d) 115, petition for certiorari filed, No. 589, October 12, 1944. Respondent, therefore, does not oppose the granting

of the petition in respect to the decision of the Court below in relation to certain of the gifts involved in this proceeding (Memorandum, page 13) but asks that certiorari on the petition herein, if granted, be limited to those gifts alone.

Two basic issues are present in the case at bar. They are, first, whether the gifts involved were gifts of money or of contractual obligations. If the gifts were of money then, clearly, the decision below was wholly erroneous. If the gifts were of contractual obligations, a second issue is presented, to wit, whether the Court below correctly interpreted and applied Treasury Regulations providing that contractual obligations do not constitute "future interests" merely because the obligation of the contract is to be discharged by payment in the future.

Insofar as it relates to gifts of contractual obligations, the Treasury Regulations dealing with gifts of future interests, an important one in the field of gift taxation, should be, but has not been authoritatively construed by this Court.

In view of the concession made by respondent, certiorari on the petition herein will no doubt be granted by this Court. Two or more other cases, i. e., *Fondren v. Commissioner*, supra, and *Disston v. Commissioner*, supra, presenting related but not identical issues are due to be considered by this Court at the present term. Since several aspects of the Statutes and Regulations relating to "gifts of future interests" will thus be before this Court at this term for its consideration, we respectfully sub-

mit that review of the decision below should not be limited in any way but that the entire case should be brought before this Court, in order that it may be in position to consider and decide any and all questions inherent in the proceeding that it may deem to merit authoritative adjudication.

### **Conclusion**

It is respectfully submitted that the decision below was wrong. It erroneously construed and applied an important Revenue Statute and Regulations promulgated thereunder. Concededly, it conflicts, in part at least, with the decision of another Circuit Court of Appeals. The petition for certiorari should be granted without limitation and the decision below reversed.

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